

OGC Has Reviewed

OGC 68-1228

3 July 1968

MEMORANDUM FOR: Deputy Director for Support

SUBJECT: CIA Retirement System

1. [REDACTED] has indicated you would like my thoughts on the effect of H. R. 17682 on the CIA Retirement Act. By now you have undoubtedly received [REDACTED] analysis of that bill including the specific improvements in the Civil Service Retirement system. He has also listed possible courses of action for the Agency in the future for modernizing our retirement system.

2. In view of [REDACTED] detailed analysis, I shall not cover that ground again. It is clear that if this bill were to pass, to many, the CIA system would not be as attractive as the Civil Service Retirement system. While many of the provisions undoubtedly will not be approved for some time to come, it is almost certain that improvements will be made along the lines included and undoubtedly other liberalizing features will be included over the years to come. Therefore, we are still confronted with the difficult problem of how to keep the CIA Retirement system up to date.

3. It might be helpful to review the Agency's philosophy on early retirement and experience to date. The first concrete decision in the Agency on the type of early retirement legislation was to fashion a retirement system modeled on the Foreign Service system but applying only to a part of the Agency employees. In 1962, we processed to the Bureau of the Budget, got their approval, and had introduced in the House, with subsequent hearings, a bill which authorized the Director to establish a system modeled on the Foreign Service system and specifically authorized the Director to adopt future amendments to the Foreign Service Retirement Act. Ideally, this would serve our purposes today.

4. The House Armed Services Committee and particularly Porter Hardy objected to incorporation by reference and more specifically objected to adopting Foreign Service. Thereafter we wrote a detailed bill which was basically the Foreign Service Retirement Act with the Director substituted for the Secretary of State. The House approved this bill but later, in the Senate Armed Services Committee, many of the Foreign Service features were modified to conform with the Civil Service Retirement system. The result was a system which was at least equal to Civil Service with some of the more liberal Foreign Service features. *some exceptions*

5. With this situation in mind, I believe we should seriously consider legislation authorizing the Director to adopt improvements in the Civil Service Retirement system as they are approved by the Congress. In this way at least we could maintain currency with Civil Service. To make such a provision more palatable to the Committees, we could provide that the Director report to the two Committees his intent to adopt a new provision sixty days prior to implementation. As to Foreign Service features desired, probably, we should seek as we have in the past specific legislation to include them in the CIA Retirement Act.

6. There is recent precedent which might be helpful. During 1967 you will recall the three-stage pay increase for civilian employees was being debated in the Congress. After this was approved by the House, the House Armed Services Committee wrote a pay bill for the military which granted an immediate increase equal to the proposed immediate civilian increase. More importantly, however, it provided that in the future whenever the classified Civil Service received a pay increase the military would receive a similar increase with the same effective date. This provision was regarded by the Committee as "legislative insurance." This was an unprecedented step since for all practical purposes it took the issue of amounts of military pay out of the jurisdiction of the Armed Services Committee by authorizing future increases in accord with future civilian pay increases. The principal figure pushing this concept was Representative Mendel Rivers who argued in effect that "I want equal treatment for the military." That is just what we want--"equal treatment for CIA."

7. Another possible course of action would be to have the Post Office and Civil Service Committees consider amendments to the CIA Retirement Act when amendments are being made to the Civil Service Retirement Act. If basic concepts are involved such as the rate of contribution or cost-of-living formulae, possibly the Foreign Service Retirement system could also be included for consideration in the Post Office and Civil Service Committee. Again there is precedent for this. Some years back when the Administration proposed uniform provisions relating to overseas allowances, the Post Office and Civil Service Committee not only amended across-the-board Government statutes but also amended the Foreign Service Act and the CIA Act of 1949 so that overseas allowances were truly uniform for all parts of civilian government. Of course, there are jurisdictional problems and the question of exposing the Agency to other than Armed Services raises problems.

8. When we were forced to spell out the CIA Retirement system we knew then the risks we were running in terms of having to go back to the Congress for updating amendments. Experience has shown us that legislation would be required in almost every Congress in order to keep our retirement system up to date. However, as you are well aware, we have not been successful in our efforts to modernize. I am sure you have already had many complaints or queries from participants in the CIA system feeling that they are not being treated fairly. Certainly I have heard such complaints. While no one can say precisely what the best approach might be, I do think we ought to consider other courses of action in view of the poor record to date in keeping the CIA Retirement system modern.

9. The above thoughts are not intended to be detailed proposals, but suggest areas to be thoroughly considered. Perhaps a skull session with Maury, Houston, and Wattles would be helpful.

JOHN S. WARNER
Deputy General Counsel

cc: D/Pers
Legislative Counsel

UNCLASSIFIED CONFIDENTIAL SECRET

OFFICIAL ROUTING SLIP

TO	NAME AND ADDRESS	DATE	INITIALS
1	Director of Personnel	6 JUL 1968	[initials]
2	[redacted]		
3	D/Pers	16 JUL 1968	[initials]
4	D/Pers/SF - [redacted]		
5			
6			

ACTION	DIRECT REPLY	PREPARE REPLY
APPROVAL	DISPATCH	RECOMMENDATION
COMMENT	FILE	RETURN
CONCURRENCE	INFORMATION	SIGNATURE

Remarks: Pls provide copies of both papers for my Retirement file -

D/Pers - There are a number of items, not covered in remaining sections of H.R. 13705, that require adjustment in our Act - I'd like to suggest that Ben be asked to carefully screen civil Service & Foreign Act - for such items (over)

FOLD HERE TO RETURN TO SENDER

FROM: NAME, ADDRESS AND PHONE NO.	DATE
OGC [redacted]	5 July 68

And then forward ^{signature} to OLC for inclusion in our next submission to Congress - possibly they can be added to H.R. ~~13705~~ 13705 when it considered by 91st Congress. I believe much of this info is immediately available.

Further, I am concerned with the seriousness of the present trend on the CIA system and believe you should take active role in pursuing points raised by [redacted] and Warner to a conclusion.